

### **DETAILED ACTION**

The Amendment filed March 11, 2008 has been entered. Claims 41-77 are now pending in the application. The drawing objections have been in light of the Applicant's amendments to the claims.

#### ***Specification***

1. The disclosure is objected to because of the following informalities: It is the Examiner's position that Applicant has evoked sixth paragraph, means-plus-function language to define Applicant's invention. Therefore the Examiner requires the Applicant to amend the specification pursuant to 37 CFR 1.75(d) and MPEP 608.01(o) to explicitly state, with reference to the terms and phrases of the claim element, what structure, materials, and acts perform the function recited in the claim element. Please note that the MPEP clearly states, "Even if the disclosure implicitly sets forth the structure, materials, or acts corresponding to the means-(or step-) plus-function claim element in compliance with 35 U.S.C. 112, first and second paragraphs, the PTO may still require the applicant to amend the specification pursuant to 37 CFR 1.75(d) and MPEP 608.01(o)...". (Also see MPEP 2181 (Rev. 1, Feb.2000)) Wolfensperger, 302 F.2d at 955, 133 USPQ at 542. Appropriate correction is required.

#### ***Claim Objections***

2. Claims 41, 59, and 76 are objected to because of the following informalities: i) It is the Examiner's position that Applicant has evoked sixth paragraph, means-plus-function language to define Applicant's invention. Therefore the Examiner has objected to the claims for the reasons

set forth above in the objection to the specification; and ii) claims 48, 52, 55, 62, 72, 75, and 77 depend from claim 40 instead of claim 41; and iii) in line 2 of claim 75, the word “of” should be --off--. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 60-61, 64-70, and 73 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claim 60 recites the limitation “the recess” in line 1. There is insufficient antecedent basis for this limitation in the claim.

6. Claim 61 recites the limitation “said sections” in lines 1-2. There is insufficient antecedent basis for this limitation in the claim.

7. Claim 64 recites the limitation “the diameter of the second end” in line 6. There is insufficient antecedent basis for this limitation in the claim.

8. Regarding claim 73, the phrase "wherein the one or more inserts comprise foam rubber/plastic" renders the claim(s) indefinite because it is unclear if the insert has to comprise one of foam, rubber, or plastic, or if the insert has to comprise foam, rubber, and plastic.

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. Claim 41 is rejected under 35 U.S.C. 102(e) as being anticipated by Maeng (US Patent 6,311,836).

Maeng discloses a portable exercise device comprising:

a body (Fig 1, #1); and support means (Fig 1, #3), detachably mounted to the body (Fig 3), for detachably securing the body to a floor or a base and supporting the body for use, said support means comprising a plurality of members (Fig 1, #3) which are detachably secured to each other (Fig 3), the body and/or the base (Fig 3), and wherein the body is hollow for receiving the plurality of detached members for storage (Fig 1, #1), and further comprises means for retaining (Fig 8, #5) the detached members within the body.

11. Claims 41, 48, 55-56, 62-63, and 71 are rejected under 35 U.S.C. 102(e) as being anticipated by Tudor (US Patent 6,808,477).

Tudor discloses a portable martial arts practice dummy comprising:

Regarding claim 1, a body (Fig 1, #14); and support means (Fig 4), detachably mounted to the body, for detachably securing the body to a floor or a base and supporting the body for use, said support means comprising a plurality of members (Fig 4, #'s 28, 32, 44, 52) which are detachably secured to each other, the body and/or the base and wherein the body is hollow for receiving the plurality of detached members for storage; and further comprises means for retaining the detached members within the body (Fig 2, one of the recesses in the body).

Regarding claim 48, wherein the support means comprises a frame horizontal (Fig 4, #28) wherein the body comprises frame horizontal apertures (Fig 2, #36) for the frame horizontal, and wherein the body is detachably mounted (Col 3, lines 1-6) to the frame horizontal by virtue of the frame horizontal passing through the frame horizontal apertures.

Regarding claims 55 and 56, wherein the body comprises a limb projecting from the body (Fig 1, #20); and wherein the limb is detachably mounted to the body (Fig 2, #'s 16, 20, 22).

Regarding claims 62 and 63, wherein the body comprises a tubular portion (Fig 1, #14); and wherein substantially the entire body is tubular (Fig 1, #14).

Regarding claim 71, wherein the dummy comprises a leg (Fig 1, #22), a mid arm (Fig 1, #20), and two upper arms (Fig 1, #'s 16, 18).

***Claim Rejections - 35 USC § 103***

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12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

14. Claim 41 is rejected under 35 U.S.C. 103(a) as being unpatentable over Levine (US Patent 4,482,150) in view of Tudor (US Patent 6,808,477).

Levine discloses a portable (Col 1, lines 22-26) exercise device comprising:

a body (Fig 1, #16); and support means (Fig 1, #10), detachably mounted to the body, for detachably securing the body to a floor or a base (Fig 1, #14) and supporting the body for use, said support means comprising a plurality of members (Fig 1) which are detachably secured to each other, the body and/or the base.

Levine does not explicitly disclose a hollow body for receiving the plurality of detached members for storage and means for retaining the detached members within the body.

However, Tudor teaches a portable martial arts dummy comprising a hollow body (Fig 1, #14) and means for retaining the detached members within the body (Fig 2, the recesses in the body).

Levine and Tudor are analogous art because they are from the same field of endeavor – exercise devices.

At the time of the invention, it would have been obvious to one of ordinary skill in the art, having the teachings of Levine and Tudor before him or her, to modify the exercise device of Levine to include the hollow body as taught by Tudor. Because both Levine and Tudor teach exercise devices it would have been obvious to one skilled in the art to substitute one element (body of Levine, Fig 1, #16) for the other (body of Tudor, Fig 1, #14) to achieve the same predictable result of a body that can be used for practicing exercises such as martial arts and/or boxing.

Therefore, it would have been obvious to combine Tudor with Levine to obtain the invention as specified in the instant claims.

15. Claims 42-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Levine (US Patent 4,482,150) in view of Tudor (US Patent 6,808,477) as applied to claim 41 above, and further in view of Brigham (US Patent 7,063,648).

Regarding claims 45 and 46, Levine/Tudor disclose all of the limitations of claim 41 as discussed above and discloses a base support for securing base panels together in a plane wherein the base support is a front (Fig 1, #38) and rear (Fig 1, #39) base support, but fails to explicitly disclose a base that comprises two or more panels and wherein the base is collapsible

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(claim 42), wherein the panels are connected by one or more hinges (claim 43), wherein the one or more hinges comprise web hinges (claim 44), and wherein the base comprises mounting points for securing the support to the base (claim 47).

However, Brigham teaches an exercise device with a base comprising: two or more panels (Fig 3, #48) and wherein the base is collapsible (Fig 2, #48); and wherein the panels are connected by one or more hinges (Fig 4, #62); and wherein the one or more hinges comprise web hinges (Fig 4, #'s 64, 66); and wherein the base comprises mounting points (Fig 3, #59) for securing a support to the base.

Levine/Tudor and Brigham are analogous art because they are from the same field of endeavor – exercise devices.

At the time of the invention, it would have been obvious to one of ordinary skill in the art, having the teachings of Levine/Tudor and Brigham before him or her, to modify the exercise device of Levine/Tudor to include the base as taught by Brigham. Because both Levine/Tudor and Brigham teach exercise devices it would have been obvious to one skilled in the art to substitute one element (base of Levine, Fig 1, #14) for the other (base of Brigham, Fig 3, #48) to achieve the same predictable result of an exercise mat that can be used for exercising.

Therefore, it would have been obvious to combine Brigham with Levine/Tudor to obtain the invention as specified in the instant claims.

16. Claim 49 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tudor (US Patent 6,808,477).

Tudor discloses all of the limitations of claims 41 and 48 as discussed above, but fails to explicitly disclose a frame horizontal that comprises a pair of frame horizontal members.

However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the frame horizontal into a pair of separable members, since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art. *Nerwin v. Erlichman*, 168 USPQ 177, 179.

17. Claims 50-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tudor (US Patent 6,808,477) in view of Cragg (US Patent 6,348,028).

Tudor discloses all of the limitations of claims 41 and 48-49 as discussed above, but fails to explicitly disclose a support means comprising a joiner with first and second ends, wherein the pair of frame horizontal members are detachably connected by the joiner, wherein the joiner has a dimension preventing it from escaping the body through the frame horizontal apertures, and wherein the joiner is dimensioned so that when frame horizontals are connected by the joiner the first and second ends of the joiner are substantially in contact with the body.

However, Cragg teaches an exercise device comprising support means (Fig 4, #12) that include a joiner with first and second ends (Fig 4, #44) that is detachably connected to a pair of frame horizontals (Fig 4, #'s 38, 38' and Col 5, lines 40-49)

Tudor and Cragg are analogous art because they are from the same field of endeavor – exercise devices.

At the time of the invention, it would have been obvious to one of ordinary skill in the art, having the teachings of Tudor and Cragg before him or her, to modify the martial arts



dummy of Tudor to include the joiner as taught by Cragg. Because both Tudor and Cragg teach training apparatuses and because all the claimed elements were known in the prior art it would have been obvious to one skilled in the art to combine the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded the same predictable results – connection means to hold a pair of frames together.

Therefore, it would have been obvious to combine Cragg with Tudor to obtain the invention as specified in the instant claims.

Regarding claims 50 and 51, wherein the joiner has a dimension preventing it from escaping the body through the frame horizontal apertures, and wherein the joiner is dimensioned so that when frame horizontals are connected by the joiner the first and second ends of the joiner are substantially in contact with the body, wherein the change in size is brought upon by a change in degree of the producing structures, would be obvious. The Applicant is encouraged to refer to the USPQ First Series Classification Series §51.261 which outlines case law pertaining to changes in size. Particular attention should be paid to *The Murray Company of Texas, INC. v. Continental Gin Company* (CA 5) 120 USPQ 416, which states that “invention cannot inhere in mere increased size or capacity since mere enlargement is not invention”; *In re Rose* (CCPA) 105 USPQ 237 which states that “size of article ordinarily is not matter of invention”; *Schaefer, INC. v. Mohawk Cabinet Company, INC.* (DC NNY) 118 USPQ 411 which states that “mere change in size, form, or degree is not invention”; and *The Ward Machinery Company v. Wm. C. Staley Machinery Corporation* (DC Md) 192 USPQ 505 which states that “improvement resulting from change in size, proportion, or degree of element contained in prior art, no matter how desirable or useful, does not constitute patentable invention”. Further regarding claims 11

and 12, changing the size of the exercise device would be readily determined by routine experimentation in an effort to produce the optimum results. Under some circumstances, however, changes such as these may impart patentability if the changes in size claimed produce a new and unexpected result which is different in kind and not merely in degree from the results of the prior art. In re Boesch and Slaney, 205 USPQ 215 (CCPA 1980). Furthermore, in Gardner v. TEC Systems, Inc., 725 F.2d 1338, 220 USPQ 777 (Fed. Cir. 1984), cert. denied, 469 U.S. 830, 225 USPQ 232 (1984), the Federal Circuit held that, where the only difference between the prior art and the claims was a recitation of relative dimensions of the claimed device and a device having the claimed relative dimensions would not perform differently than the prior art device, the claimed device was not patentably distinct from the prior art device.

18. Claims 52-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tudor (US Patent 6,808,477) in view of Nelson et al (US Patent 6,152,863).

Tudor discloses all of the limitations of claim 41 as discussed above, but fails to explicitly disclose support means that comprise a frame and a pair of frame uprights upstanding from a base, the frame also comprising a pair of rear triangulation supports bracing the frame uprights to the base in a first plane; a pair of lateral triangulation supports bracing the frame uprights to the base in a second plane; and a pair of frame horizontals connecting the body to the frame uprights.

However, Nelson et al teaches a martial arts dummy comprising support means that comprise a frame (Fig 1) and a pair of frame uprights (Fig 1, #132) upstanding from a base (Fig 1, #112 and Col 4, lines 30-33), the frame also comprising a pair of rear triangulation supports

bracing the frame uprights to the base in a first plane (Fig 1); and a pair of lateral triangulation supports bracing the frame uprights to the base in a second plane (Fig 1).

Tudor and Nelson et al are analogous art because they are from the same field of endeavor – exercise devices.

At the time of the invention, it would have been obvious to one of ordinary skill in the art, having the teachings of Tudor and Nelson et al before him or her, to modify the martial arts dummy of Tudor to include the frame and base as taught by Nelson et al. Because both Tudor and Nelson et al teach martial arts dummies and because all the claimed elements were known in the prior art it would have been obvious to one skilled in the art to combine the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded the same predictable results – a martial arts dummy with support means.

Therefore, it would have been obvious to combine Nelson et al with Tudor to obtain the invention as specified in the instant claims.

Applicant should note that in the combination of Tudor and Nelson et al, the frame horizontals of Tudor (Fig 1, #28) would inherently be connecting the body to the frame uprights (Fig 1, #132) of Nelson et al.

19. Claims 57-58 and 64-67 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tudor (US Patent 6,808,477) in view of Crook (GB 2,307,418).

Regarding claims 57-58 and 64-70, Tudor discloses all of the limitations of claim 55 as discussed above and discloses a first aperture and a second aperture defined in the body (Fig 2) that are diametrically opposite each other and wherein the first aperture has a diameter

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substantially equal to a second diameter of the limb and wherein the second aperture has a diameter substantially equal to the diameter of the second end, and discloses a second end of the limb that is generally rectangular and a second aperture that is generally rectangular, but fails to explicitly disclose a generally cylindrical limb wherein the limb is frustoconical towards a first end, and wherein the limb narrows towards the first end. Examiner takes the position that the means for retaining by Tudor in the rejection of claim 41 is one set of apertures and the first and second aperture in the rejection of claim 64 are another set of apertures in the body disclosed in Figure 2.

However, Crook teaches a martial arts dummy comprising a frustoconical limb (Fig 2, #13) that narrows towards a first end.

Tudor and Crook are analogous art because they are from the same field of endeavor – exercise devices.

At the time of the invention, it would have been obvious to one of ordinary skill in the art, having the teachings of Tudor and Crook before him or her, to modify the martial arts dummy of Tudor to include the frustoconical limb with a cylindrical shank as taught by Crook. Because both Tudor and Crook teach martial arts dummies it would have been obvious to one skilled in the art to substitute one element (limbs of Tudor, Fig 1, #'s 16, 18, 20, 22) for the other (limbs of Crook, Fig 2, #'s 12, 13) to achieve the same predictable result of a limb that can be used for practicing martial arts.

Therefore, it would have been obvious to combine Crook with Tudor to obtain the invention as specified in the instant claims.

Regarding claims 64-66, wherein the second end of the limb has a diameter smaller than the second diameter of the limb a mere change in size of a product produced, wherein the change in size is brought upon by a change in degree of the producing structures, would be obvious. The Applicant is encouraged to refer to the USPQ First Series Classification Series §51.261 which outlines case law pertaining to changes in size. Particular attention should be paid to *The Murray Company of Texas, INC. v. Continental Gin Company* (CA 5) 120 USPQ 416, which states that “invention cannot inhere in mere increased size or capacity since mere enlargement is not invention”; *In re Rose* (CCPA) 105 USPQ 237 which states that “size of article ordinarily is not matter of invention”; *Schaefer, INC. v. Mohawk Cabinet Company, INC.* (DC NNY) 118 USPQ 411 which states that “mere change in size, form, or degree is not invention”; and *The Ward Machinery Company v. Wm. C. Staley Machinery Corporation* (DC Md) 192 USPQ 505 which states that “improvement resulting from change in size, proportion, or degree of element contained in prior art, no matter how desirable or useful, does not constitute patentable invention”. Further regarding claim 27, changing the size of the exercise device would be readily determined by routine experimentation in an effort to produce the optimum results. Under some circumstances, however, changes such as these may impart patentability if the changes in size claimed produce a new and unexpected result which is different in kind and not merely in degree from the results of the prior art. *In re Boesch and Slaney*, 205 USPQ 215 (CCPA 1980). Furthermore, in *Gardner v. TEC Systems, Inc.*, 725 F.2d 1338, 220 USPQ 777 (Fed. Cir. 1984), cert. denied, 469 U.S. 830, 225 USPQ 232 (1984), the Federal Circuit held that, where the only difference between the prior art and the claims was a recitation of relative dimensions of the claimed device and a device having the claimed relative dimensions would not

perform differently than the prior art device, the claimed device was not patentably distinct from the prior art device.

Regarding claims 68-70, Tudor discloses a limb comprising a recess/aperture (Fig 2, the non-number dowel holding the limbs in place) for detachably receiving a dowel so that when the dowel is engaged in the recess then the body is captively held between the shank and the dowel to limit motion between the limb and the body.

20. Claims 59-60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tudor (US Patent 6,808,477) in view of Crook (GB 2,307,418).

Tudor discloses all of the limitations of claim 56 as discussed above and discloses a body comprising an aperture (Fig 2) for receiving a first and second end of a limb so that the limb is mounted to the body when the second end is received by the recess, but fails to explicitly disclose means for mounting the second end of the limb internally within the body and wherein the aperture is dimensioned to support the limb when it is mounted to the body.

However, Crook teaches a martial arts dummy comprising a frustoconical limb (Fig 2, #13) which comprises means for mounting comprised of a cylindrical shank (Fig 2, #12) and teaches an aperture (Fig 2, #6) dimensioned so that the recess receives a portion of the shank when the limb is mounted to the body. Examiner notes that the recess (Fig 2) disclosed by Tudor would thus be dimensioned accordingly to receive the limb and the shank when the limb is mounted to the body.

Tudor and Crook are analogous art because they are from the same field of endeavor – exercise devices.

At the time of the invention, it would have been obvious to one of ordinary skill in the art, having the teachings of Tudor and Crook before him or her, to modify the martial arts dummy of Tudor to include the frustoconical limb with a cylindrical shank as taught by Crook. Because both Tudor and Crook teach martial arts dummies it would have been obvious to one skilled in the art to substitute one element (limbs of Tudor, Fig 1, #'s 16, 18, 20, 22) for the other (limbs of Crook, Fig 2, #'s 12, 13) to achieve the same predictable result of a limb that can be used for practicing martial arts.

Therefore, it would have been obvious to combine Crook with Tudor to obtain the invention as specified in the instant claims.

21. Claim 61 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tudor (US Patent 6,808,477).

Tudor discloses all of the limitations of claim 55 as discussed above, but fails to explicitly disclose wherein the limb comprises a first and a second section being detachably joined at an angle to each other.

However, it would have been obvious to a person having ordinary skill in the art at the time of the invention to make the limb out of two sections instead of one, since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art. *Nerwin v. Erlicnrrnan*, 168 USPQ 177, 179. Examiner notes that Tudor discloses a limb that is at an angle (Fig 2, #22), and furthermore, constructing the limb out of two sections would inherently dispose them at an angle to each other, albeit the angle may be zero degrees.

22. Claims 72-74 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maeng (US Patent 6,311,836) in view of Joh (US Patent 5,868,248).

Maeng discloses all of the limitations of claim 41 as discussed above, but fails to explicitly disclose wherein the retaining means comprises one or more inserts located in the hollow body, wherein at least one of (i) one or more recesses and (ii) one or more apertures are provided in each of the one or more inserts, wherein the recesses and apertures enable items to be retaining inside the body (claim 72), wherein the one or more inserts comprises foam, rubber, or plastic (claim 73), and wherein the dummy comprises a base insert, a mid insert, and a top insert.

However, Joh teaches an exercise device comprising a hollow body which has retaining means comprising one or more inserts (Fig 1, #s 54, 56, 58) located in the hollow body, wherein at least one of (i) one or more recesses and (ii) one or more apertures (Fig 3) are provided in each of the one or more inserts, wherein the recesses and apertures enable items to be retaining inside the body, and wherein the dummy comprises a base insert (Fig 1, #54), a mid insert (Fig 1, #56), and a top insert (Fig 1, #58).

Maeng and Joh are analogous art because they are from the same field of endeavor - exercise devices.

At the time of the invention, it would have been obvious to one of ordinary skill in the art, having the teachings of Maeng and Joh before him or her, to modify the exercise device of Maeng to include the inserts as taught by Joh because it would enable the user to conveniently isolate the various golf clubs carried within the bag in an efficient and protective manner (Joh, Col 1, lines 26-29).



Therefore, it would have been obvious to combine Joh with Maeng to obtain the invention as specified in the instant claims.

Regarding claim 73, Maeng discloses that divider members (Fig 1, #26, 28, 30) are comprised of plastic (Col 3, lines 35-39), and therefore, since Maeng discloses the dividers and the inserts in a different embodiment as an integral piece (Fig 4) it would have been obvious to make the inserts out of plastic to ensure a lightweight bag.

23. Claims 75-76 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maeng (US Patent 6,311,836) in view of Joh (US Patent 5,823,335).

Maeng discloses all of the limitations of claim 41 as discussed above, but fails to explicitly disclose wherein the retaining means further comprise an end cap detachably mounted to close off the hollow portion (claim 75), and wherein the end cap has means for securing it to the hollow portion.

However, Joh teaches an exercise device comprising a hollow body (Fig 1, #10 and Abstract) with retaining means that comprise an end cap (Fig 1a) detachably mounted to close off the hollow portion, and wherein the end cap has means for securing (Fig 1a, #s 46, 58) it to the hollow portion.

Maeng and Joh are analogous art because they are from the same field of endeavor - exercise devices.

At the time of the invention, it would have been obvious to one of ordinary skill in the art, having the teachings of Maeng and Joh before him or her, to modify the exercise device of

Maeng to include the end cap as taught by Joh because it would cover and protect the heads of the golf clubs.

Therefore, it would have been obvious to combine Joh with Maeng to obtain the invention as specified in the instant claims.

24. Claim 77 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tudor (US Patent 6,808,477) in view of D'Alto (US Patent 5,437,590).

Tudor disclose all of the limitations of claims 41 as discussed above, but fails to explicitly disclose wherein the dummy comprises a leather punch pad.

However, D'Alto teaches an exercise bag comprising a leather cover (Col 5, lines 5-7).

Tudor and D'Alto are analogous art because they are from the same field of endeavor – exercise devices.

At the time of the invention, it would have been obvious to one of ordinary skill in the art, having the teachings of Tudor and D'Alto before him or her, to modify the martial arts dummy of Tudor to include the leather punch pad as taught by D'Alto. Because both Tudor and D'Alto teach exercise bags/dummies and because all the claimed elements were known in the prior art it would have been obvious to one skilled in the art to combine the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded the same predictable results – a martial arts dummy comprised of a leather punching surface.

Therefore, it would have been obvious to combine D'Alto with Tudor to obtain the invention as specified in the instant claims.

***Response to Arguments***

25. Applicant's arguments with respect to claims 1-40 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

26. The prior art made of record is considered pertinent to applicant's disclosure. Please see from PTO-892.

27. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL F. ROLAND whose telephone number is (571)270-5029. The examiner can normally be reached on Monday - Friday (7:30-5:00) Alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, LoAn Thanh can be reached on (571) 272-4966. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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